APPELLANTS' BRIEF ON APPEAL
U.S. Application No.: 10/815,797
Atty. Docket: 129250-001068/US

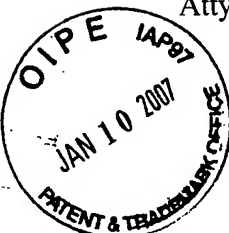# TABLE OF CONTENTS

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TRANSMITTAL FORM
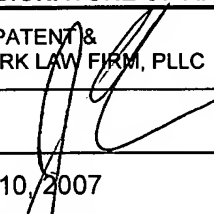
(to be used for all correspondence after initial filing)

Application Number	**10/815,797**
Filing Date	April 2nd, 2004
Inventor(s)	Doru Calin et al.
Group Art Unit	2617
Examiner Name	Sharad K. Rampuria
Attorney Docket Number	129250-001068/US

ENCLOSURES *(check all that apply)*

☒ Fee Transmittal Form

　☒ Fee Attached

☐ Amendment

　☐ After Final

　☐ Affidavits/declaration(s)

☐ Extension of Time Request

☐ Express Abandonment Request

☐ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Response to Missing Parts/ Incomplete Application

☐ Response to Missing Parts under 37 CFR 1.52 or 1.53

☐ Assignment Papers *(for an Application)*

☐ Letter to the Official Draftsperson and _____ Sheets of Formal Drawing(s)

☐ Licensing-related Papers

☐ Petition

☐ Petition to Convert to a Provisional Application

☐ Change of Correspondence Address and revocation/POA

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s) _____

Remarks

☐ After Allowance Communication to Group

☐ LETTER SUBMITTING APPEAL BRIEF AND APPEAL BRIEF (w/clean version of pending claims)

☒ Appeal Communication to Group *(Notice of Appeal, **Appeal Brief**, Reply Brief)*

☐ Proprietary Information

☐ Status Letter

☒ Other Enclosure(s) *(please identify below)*: **Check #1234 for $500**

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC	Attorney Name John E. Curtin	Reg. No. 37,602
Signature			
Date	January 10, 2007		

FEE TRANSMITTAL
for FY 2006

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 500

Complete if Known	
Application Number	10/815,797
Filing Date	April 2, 2004
First Named Inventor	Doru Calin
Examiner Name	Sharad K. Rampuria
Art Unit	2617
Attorney Docket No.	129250-001068/US

METHOD OF PAYMENT *(check all that apply)*

☒ Check   ☐ Credit card   ☐ Money Order   ☐ Other   ☐ None

☒ Deposit Account:

Deposit Account Number: 50-3777

Deposit Account Name: Capitol Patent & Law Firm

The Director is authorized to: *(check all that apply)*
☐ Charge fee(s) indicated below ☒ Credit any overpayments
☒ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, **except for the filing fee**
to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity			
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description	Fee Paid
1011	300	2011	150	Utility filing fee	
1012	200	2012	100	Design filing fee	
1013	200	2013	100	Plant filing fee	
1014	300	2014	150	Reissue filing fee	
1005	200	2005	100	Provisional filling fee	
				SUBTOTAL (1)	($) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims		-20 ** =		X	=	0
Independent Claims		-3 ** =		X	=	0
Multiple Dependent					=	0

Large Entity		Small Entity			
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description	
1202	50	2202	25	Claims in excess of 20	
1201	200	2201	100	Independent claims in excess of 3	
1203	360	2203	180	Multiple dependent claim, if not paid	
1204	200	2204	100	** Reissue independent claims over original patent	
1205	50	2205	25	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) ($) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity			
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	500
1403	1000	2403	500	Request for oral hearing	
1452	500	2452	250	Petition to revive – unavoidable	
1453	1500	2453	750	Petition to revive – unintentional	
1501	1400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid   SUBTOTAL (3) ($)500

4. SEARCH/EXAMINATION FEES

1111	500	2111	250	Utility Search Fee	
1112	100	2112	50	Design Search Fee	
1113	300	2113	150	Plant Search Fee	
1114	500	2114	250	Reissue Search Fee	
1311	200	2311	100	Utility Examination Fee	
1312	130	2312	65	Design Examination Fee	
1313	160	2313	80	Plant Examination Fee	
1314	600	2314	300	Reissue Examination Fee	

SUBTOTAL (4) ($)0

SUBMITTED BY				Complete *(if applicable)*	
Name (Print/Type)	John E. Curtin	Registration No. (Attorney/Agent)	37,602	Telephone	(703)266-3330
Signature				Date	January 10, 2007

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IN THE U.S. PATENT AND TRADEMARK OFFICE

Appellant: Doru Calin et al

Application No.: 10/815,797

Filing Date: April 2, 2004

Art Unit: 2617

Examiner: Sharad K. Rampuria

For: METHODS AND DEVICES FOR VARYING A HAND-OFF
BASE STATION LIST BASED UPON TRAFFIC CONDITIONS

Attorney Docket No.: 129250-001068/US

APPELLANTS' BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

January 10, 2007

APPELLANT'S BRIEF ON APPEAL

I.   REAL PARTY IN INTEREST:

The real party in interest in this appeal is Lucent Technologies Inc. Assignment of the application was submitted to the U.S. Patent and Trademark Office on April 2, 2004 and recorded at Reel 015181, Frame 0640.

II.   RELATED APPEALS AND INTERFERENCES:

There are no known appeals or interferences that will affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

III.   STATUS OF CLAIMS:

Claims 1-49 are pending in the application, with claims 1, 11, 16, 17, 19, 20, 28, 33, 34, 36, 37, 41, 43, 44, and 46 being written in independent form. Claims 1-49 are being appealed.

IV.   STATUS OF AMENDMENTS:

A Request for Reconsideration ("Request") was filed on October 10, 2006. In an Advisory Action dated December 20, 2006 ("Advisory") the Examiner stated that although the Request was considered, it did not place the application in condition for allowance.

V.   SUMMARY OF CLAIMED SUBJECT MATTER:

(i.)   Overview of the Subject Matter of the Independent Claims

The invention relates to the variation of a list of potential, hand-off base stations to control call-blocking and dropping rates.

Independent claim 1 reads as follows:

1.   A method for setting a number of base stations that can be considered hand-off base stations comprising the steps of:
measuring real-time traffic flow criteria associated with one or more base stations;

setting a number of base stations that can be considered hand-off base stations, from a neighbor list of potential hand-off base stations, depending on the measured traffic flow.

Support for claim 1 can be found, for example, at least on page 4, paragraphs [0014] and [0015] and page 5, paragraphs [0016] and [0017] of the specification.

Independent claim 11 reads as follows:

11. A method for setting a number of base stations that can be considered hand-off base stations comprising the steps of:
measuring real-time traffic flow criteria of a base station on the list;
comparing the measured flow criteria to a threshold; and
setting a number of base stations that can be considered hand-off base stations associated with the threshold based on the results of the comparison.

Support for claim 11 can be found, for example, at least on page 4, paragraphs [0014] and [0015], page 5, paragraphs [0016] and [0017] and page 6, paragraph [0023] of the specification.

Independent claim 16 reads as follows:

16. A method for controlling hand-offs in a base station, comprising the steps of:
measuring, in real-time, traffic flow criteria related to a wireless network; and
controlling the length of a neighboring base station list as a function of the value of the traffic flow criteria.

Support for claim 16 can be found, for example at least on page 5, paragraphs [0016] and [0017] of the specification.

Independent claim 17 reads as follows:

17. A method for use in a wireless network comprising the step of enabling a base station currently serving a call for a wireless device to hand-off said call to another base station on its neighboring base

station list only when a real-time measurement of a traffic flow criteria meets an acceptable level.

Support for claim 17 can be found, for example, at least on page 4,

paragraph [0016] of the specification.

Independent claim 19 reads as follows:

19. A method for use in a wireless network comprising the step of enabling a first base station to hand-off a call being served by said first base station to a second base station on said first base station's neighboring base station list only when a real-time measurement of traffic flow criteria indicates that said second base station can serve said call, whereby said call is not dropped by said second base station substantially immediately after said hand-off.

Support for claim 19 can be found, for example, at least on page 2,

paragraph [0047] of the specification.

Independent claim 20 reads as follows:

20.   A system for setting a hand-off base station list operable to:
measure real-time traffic flow criteria associated with one or more base stations;
set a number of base stations that can be considered hand-off base stations, from a neighbor list of potential hand-off base stations, depending on the measured traffic flow criteria.

Support for claim 20 can be found at least on page 4, paragraphs [0014]

and [0015] and page 5, paragraphs [0016] and [0017] of the specification.

Independent claim 28 reads as follows:

28.   A system for setting a number of base stations that can be considered hand-off base stations operable to:
measure real-time traffic flow criteria of a base station on the list;
compare the measured flow criteria to a threshold; and

set a number of base stations that can be considered hand-off base stations associated with the threshold based on the results of the comparison.

Support for claim 28 can be found at least on page 4, paragraphs [0014] and [0015], page 5, paragraphs [0016] and [0017] and page 6, paragraph [0023]of the specification.

Independent claim 33 reads as follows:

33.   A system for controlling hand-offs in a base station, operable to:
measure, in real-time, traffic flow criteria related to a wireless network; and
control the length of a neighboring base station list as a function of the value of the traffic flow criteria.

Support for claim 33 can be found at least on page 5, paragraphs [0016] and [0017] of the specification.

Independent claim 34 reads as follows:

34.   A system for use in a wireless network operable to enable a base station currently serving a call for a wireless device to hand-off said call to another base station on its neighboring base station list only when a real-time measurement of traffic flow criteria meets an acceptable level.

Support for claim 34 can be found at least on page 4, paragraph [0016] of the specification.

Independent claim 36 reads as follows:

36.   A system for use in a wireless network operable to enable a first base station to hand-off a call being served by said first base station to a second base station on said first base station's neighboring base station list only when a real-time measurement of traffic flow criteria indicates that said second base station can serve said call, whereby said

call is not dropped by said second base station substantially immediately after said hand-off.

Support for claim 36 can be found at least on page 2, paragraph [0047] of the specification.

Independent claim 37 reads as follows:

37. A system for setting a hand-off base station list comprising:
means for measuring real-time traffic flow criteria associated with one or more base stations;
means for setting a number of base stations that can be considered hand-off base stations, from a neighbor list of potential hand-off base stations, depending on the measured traffic flow criteria.

Support for claim 37 can be found at least on page 4, paragraphs [0014] and [0015] and page 5, paragraphs [0016] and [0017] of the specification.

Independent claim 41 reads as follows:

41. A system for setting a number of base stations that can be considered hand-off base stations comprising:
means for measuring real-time traffic flow criteria of a base station on the list;
means for comparing the measured flow criteria to a threshold; and
means for setting a number of base stations that can be considered hand-off base stations associated with the threshold based on the results of the comparison.

Support for claim 41 can be found at least on page 4, paragraphs [0014] and [0015], page 5, paragraphs [0016] and [0017] and page 6, paragraph [0023] of the specification.

Independent claim 43 reads as follows:

43. A system for controlling hand-offs in a base station, comprising:
means for measuring, in real-time, traffic flow criteria related to a wireless network; and
means for controlling the length of a neighboring base station list as a function of the value of the traffic flow criteria.

Support for claim 43 can be found at least on page 5, paragraphs [0016] and [0017] of the specification.

Independent claim 44 reads as follows:

44.   A system for use in a wireless network comprising means for enabling a base station currently serving a call for a wireless device to hand-off said call to another base station on its neighboring base station list only when a real-time measurement of traffic flow criteria meets an acceptable level.

Support for claim 44 can be found at least on page 4, paragraph [0016] of the specification.

Independent claim 46 reads as follows:

46.   A system for use in a wireless network comprising means for enabling a first base station to hand-off a call being served by said first base station to a second base station on said first base station's neighboring base station list only when real-time measurement of traffic flow criteria indicates that said second base station can serve said call, whereby said call is not dropped by said second base station substantially immediately after said hand-off.

Support for claim 46 can be found at least on page 2, paragraph [0047] of the specification.

In order to make the overview set forth above concise the disclosure that has been included, or referred to, above only represents a portion of the total disclosure set forth in the specification that supports the independent claims.

(ii.)   Additional Text from the Specification in Support of the Claims

The Appellants note that there may be additional disclosure in the specification that also supports the independent and dependent claims.

Further, by referring to the disclosure above the Appellants do not represent that this is the only evidence that supports the independent claims nor do Appellants necessarily represent that this disclosure can be used to fully interpret the claims of the present invention. Instead, this disclosure is an overview of the claimed subject matter.

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL:

Appellants seek the Board's review and reversal of the Examiner's rejection of: (a) claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49 under 35 U.S.C. §102(b) as being unpatentable over Lyer et al., U.S. Patent No. 6,295,450 ("Lyer"); (b) claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40 under 35 U.S.C. §103(a) based on a combination of Lyer and Celedon et al., U.S. Patent Publication No. 2003/0190916 ("Celedon"); and (c) claims 16-19, 33-36 and 43-46 were rejected under 35 U.S.C. §103(a) based on a combination of Lyer in view of Celedon and Hellander, U.S. Patent No. 6,445,918 ("Hellander").

VII.   ARGUMENTS:

A.   The 35 U.S.C. §102 Rejections

Claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49 were rejected under 35 U.S.C. §102(b) as being unpatentable over Lyer. Appelants respectfully disagree for at least the following reasons.

Lyer does not disclose (or suggest) the measurement, or use, of real-time traffic flow criteria to, among other things, set the number of base stations that may be considered hand-off base stations.

In an earlier Office Action the Examiner appears to refer to columns 4 and 5 of Lyer as allegedly disclosing the measurement of real-time traffic flow criteria. This is inaccurate. Instead, Lyer selects a base station that "can best

serve [a] remote unit 113" based on signal quality measurements, not traffic flow.

More specifically, Lyer initially computes a list of base stations that can best serve a remote unit by having a serving base station exchange signaling messages with its neighboring base stations and then computing the list or by having the neighboring base station send information directly to the remote unit (see column 4, lines 41-67). In either case, at no time is traffic flow, let alone real-time traffic flow, measured or used to compute the list or select a neighboring base station as a hand-off base station as in the claims of the present invention. The only real time measurements made by Lyer appear to be signal quality measurements.

In the Advisory, the Examiner states that Lyer supports the assertion as, [sic] that the handoff to a best-base station, is based on capability of the base station." Whether this statement is accurate or not, the Appellants respectfully submit that the claims are not directed to some general capability of a base station. Rather, the claims are directed to the measurement, or use, of real-time traffic flow criteria to, among other things, set the number of base stations that may be considered hand-off base stations.

In sum, because Lyer does not disclose each and every feature of claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49 it cannot anticipate these claims under 35 U.S.C. §102(b).

Appellants respectfully request that the members of the Board reverse the decisions of the Examiner and allow claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49.

B.   The 35 U.S.C. §103 Rejections

Claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40 were rejected under 35 U.S.C. §103(a) based on a combination of Lyer and Celedon. Further, claims 16-19, 33-36 and 43-46 were rejected under 35 U.S.C. §103(a) based on a

combination of Lyer in view of Celedon and Hellander. Appellants respectfully disagree for at least the following reasons.

(i)   Claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40

Initially, Appellants note that claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40 depend on either claims 1, 11, 20, 28 or 37 and are, therefore, patentable over the combination of Lyer and Celedon for the reasons set forth above and because Celedon does not make up for the deficiencies in Lyer.

Rather than disclose or suggest the measurement of real-time traffic flow criteria associated with base stations, Celedon appears to disclose the use of non-real time information (See paragraph [0022], "Generally, measurements are stored and available in an MSC to use in determining the necessity for removing or adding a particular cell in a neighbor list.").

(ii)   Claims 16-19, 33-36 and 43-46

In an earlier Office Action the Examiner admitted that neither Lyer nor Celedon teach "measuring, in real time, traffic flow criteria related to a wireless network." To make up for this deficiency the Examiner relies on Hellander.

Initially, Appellants note that claims 1, 3, 4, 8-12, 20, 22, 23, 27-29, 37, 41, 42 and 47-49 (which were rejected under §102, not §103) also contain a similar feature and, therefore, are patentable over Lyer and Celedon for the reasons set forth above and because the Examiner has now acknowledged as much in the arguments rejecting claims 16-19, 33-36 and 43-46.

Further, Appellants note that Hellander does not make up for the deficiencies of Lyer or Celedon. Instead of disclosing or suggesting the measurement of real-time traffic flow criteria associated with base stations Hellander appears to disclose "previously performed mobile-assisted handoff measurements" to reconnect dropped calls; such measurements are not based on real-time traffic flow criteria.

Accordingly, because none of the combination of references cited by the Examiner suggests the measurement of real-time traffic flow criteria, Appellants respectfully request that the members of the Board reverse the decisions of the Examiner and allow claims 2, 5-7, 13-15-19, 21, 24-26, 30-32, 33-36 and 43-46.

Conclusion:

Appellant respectfully requests that the members of the Board reverse the Examiner's decisions rejecting claims 1-49 and allow these claims.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.

By: _____

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VIII. **CLAIMS APPENDIX**

1.   (Previously Presented) A method for setting a number of base stations that can be considered hand-off base stations comprising the steps of:

measuring real-time traffic flow criteria associated with one or more base stations;

setting a number of base stations that can be considered hand-off base stations, from a neighbor list of potential hand-off base stations, depending on the measured traffic flow.

2.   (Previously Presented) The method as in claim 1 further comprising the step of setting the number of base stations so that the number is set below an initial number to prevent an overload traffic condition.

3.   (Original) The method as in claim 1 further comprising the step of maintaining an initial neighbor list and generating an adaptable neighbor list of potential hand-off base stations based on traffic flows.

4.   (Previously Presented) The method as in claim 1 further comprising setting the number of base stations without requiring human intervention.

5.   (Previously Presented) The method as in claim 1 further comprising decreasing the number of base stations as the traffic flow criteria worsens.

6.   (Previously Presented) The method as in claim 1 further comprising increasing the number of base stations as traffic flow criteria improves.

7.   (Previously Presented) The method as in claim 1 wherein the number of base stations included in the neighbor list of potential hand-off base stations is less than a maximum number of base stations included in an initial neighbor list.

8.   (Previously Presented) The method as in claim 1 further comprising the step of forwarding the adaptable neighbor list to a wireless device.

9.   (Previously Presented) The method as in claim 1 wherein a wireless device is operable to enable a hand-off.

10.   (Previously Presented) The method as in claim 1 wherein the at least one base station on the list is operable to enable a hand-off.

11.   (Previously Presented) A method for setting a number of base stations that can be considered hand-off base stations comprising the steps of:

measuring real-time traffic flow criteria of a base station on the list;

comparing the measured flow criteria to a threshold; and

setting a number of base stations that can be considered hand-off base stations associated with the threshold based on the results of the comparison.

12. (Previously Presented) The method as in claim 11 further comprising the steps of:

comparing the measured traffic flow criteria to a plurality of thresholds; and

setting the number of base stations to a number associated with a last threshold of the plurality of thresholds exceeded by the measured traffic flow criteria.

13. (Original) The method as in claim 11 wherein a value of the threshold may change over time.

14. (Original) The method as in claim 12 wherein the number of thresholds may change over time.

15. (Previously Presented) The method as in claim 11 wherein the number of base stations associated with the threshold may change over time.

16. (Original) A method for controlling hand-offs in a base station, comprising the steps of:

measuring, in real-time, traffic flow criteria related to a wireless network; and

controlling the length of a neighboring base station list as a function of the value of the traffic flow criteria.

17. (Original) A method for use in a wireless network comprising the step of enabling a base station currently serving a call for a wireless device to hand-off said call to another base station on its neighboring base station list only when a real-time measurement of a traffic flow criteria meets an acceptable level.

18. (Original) The method as in claim 17 further comprising the step of preventing said base station from handing-off said call when said traffic flow criteria does not meet said acceptable level.

19. (Original) A method for use in a wireless network comprising the step of enabling a first base station to hand-off a call being served by said first base station to a second base station on said first base station's neighboring base station list only when a real-time measurement of traffic flow criteria indicates that said second base station can serve said call, whereby said call is

not dropped by said second base station substantially immediately after said hand-off.

20.   (Previously Presented) A system for setting a hand-off base station list operable to:

measure real-time traffic flow criteria associated with one or more base stations;

set a number of base stations that can be considered hand-off base stations, from a neighbor list of potential hand-off base stations, depending on the measured traffic flow criteria.

21.   (Previously Presented) The system as in claim 20 comprising a control section operable to set the number of base stations so that the number is set below an initial number to prevent an overload traffic condition.

22.   (Original) The system as in claim 20 comprising a control section operable to maintain an initial neighbor list and generate an adaptable neighbor list of potential hand-off base stations based on traffic flow criteria.

23.   (Previously Presented) The system as in claim 20 comprising a control section operable to set the number of base stations without requiring human intervention.

24.   (Previously Presented) The system as in claim 20 comprising a control section operable to decrease the number of base stations as the traffic criteria worsen.

25.   (Previously Presented) The system as in claim 20 comprising a control section operable to increase the number of base stations as the traffic flow criteria improves.

26.   (Previously Presented) The system as in claim 20 wherein the number of base stations included in the neighbor list of potential hand-off base stations is less than a maximum number of base stations included in an initial neighbor list.

27.   (Previously Presented) The system as in claim 20 comprising a control section operable to forward the; adaptable neighbor list to a wireless device.

28.   (Previously Presented) A system for setting a number of base stations that can be considered hand-off base stations operable to:

    measure real-time traffic flow criteria of a base station on the list;

    compare the measured flow criteria to a threshold; and

set a number of base stations that can be considered hand-off base

stations associated with the threshold based on the results of the comparison.

29.   (Previously Presented) The system as in claim 28 further operable

to:

compare the measured traffic flow criteria to a plurality of thresholds;

and

set the number of base stations to a number associated with a last

threshold of the plurality of thresholds exceeded by the measured traffic flow

criteria.

30.   (Original) The system as in claim 28 wherein a value of the

threshold may change over time.

31.   (Original) The system as in claim 29 wherein the number of

thresholds may change over time.

32.   (Previously Presented) The system as in claim 28 wherein the set

number of base stations from the neighbor list associated with the threshold

may change over time.

33.   (Original) A system for controlling hand-offs in a base station, operable to:

measure, in real-time, traffic flow criteria related to a wireless network; and

control the length of a neighboring base station list as a function of the value of the traffic flow criteria.

34.   (Original) A system for use in a wireless network operable to enable a base station currently serving a call for a wireless device to hand-off said call to another base station on its neighboring base station list only when a real-time measurement of traffic flow criteria meets an acceptable level.

35.   (Original) The system as in claim 34 further operable to prevent said base station from handing-off said call when said traffic flow criteria does not meet said acceptable level.

36.   (Original) A system for use in a wireless network operable to enable a first base station to hand-off a call being served by said first base station to a second base station on said first base station's neighboring base station list only when a real-time measurement of traffic flow criteria indicates that said second base station can serve said call, whereby said call is not dropped by said second base station substantially immediately after said hand-off.

37.   (Previously Presented) A system for setting a hand-off base station list comprising:

means for measuring real-time traffic flow criteria associated with one or more base stations;

means for setting a number of base stations that can be considered hand-off base stations, from a neighbor list of potential hand-off base stations, depending on the measured traffic flow criteria.

38.   (Previously Presented) The system as in claim 37 comprising a control section having means for setting the number of base stations so that the number is set below an initial number to prevent an overload traffic condition.

39.   (Previously Presented) The system as in claim 37 comprising a control section having means for decreasing the number of base stations as the traffic criteria worsen.

40.   (Previously Presented) The system as in claim 37 comprising a control section comprising means for increasing the number of base stations as the traffic flow criteria improves.

41.   (Previously Presented) A system for setting a number of base stations that can be considered hand-off base stations comprising:

means for measuring real-time traffic flow criteria of a base station on the list;

means for comparing the measured flow criteria to a threshold; and

means for setting a number of base stations that can be considered hand-off base stations associated with the threshold based on the results of the comparison.

42.   (Previously Presented) The system as in claim 41 comprising:

means for comparing the measured traffic flow criteria to a plurality of thresholds; and means for setting the number of base stations to a number associated with a last threshold of the plurality of thresholds exceeded by the measured traffic flow criteria.

43.   (Original) A system for controlling hand-offs in a base station, comprising:

means for measuring, in real-time, traffic flow criteria related to a wireless network; and

means for controlling the length of a neighboring base station list as a function of the value of the traffic flow criteria.

44.   (Original) A system for use in a wireless network comprising means for enabling a base station currently serving a call for a wireless device to hand-off said call to another base station on its neighboring base station list only when a real-time measurement of traffic flow criteria meets an acceptable level.

45.   (Original) The system as in claim 44 comprising means for preventing said base station from handing-off said call when said traffic flow criteria does not meet said acceptable level.

46.   (Original) A system for use in a wireless network comprising means for enabling a first base station to hand-off a call being served by said first base station to a second base station on said first base station's neighboring base station list only when real-time measurement of traffic flow criteria indicates that said second base station can serve said call, whereby said call is not dropped by said second base station substantially immediately after said hand-off.

47.   (Previously Presented) The method as in claim 1 wherein the measurement step further comprises:

measuring the level of one or more pilot signals, each pilot signal associated with a potential hand-off base station included in the neighbor.

48. (Previously Presented) The system as in claim 20 further operable to:

measure the level of one or more pilot signals, each pilot signal associated with a potential hand-off base station included in the neighbor list.

49. (Previously Presented) The system as in claim 37 further comprising:

means for measuring the level of one or more pilot signals, each pilot signal associated with a potential hand-off base station included in neighbor list.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDING APPENDIX

None.